

Commission on Justice in Wales
Oral Evidence Session
15th December 2018

Present:	Commission members	Secretariat team
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Question area: Current challenges within the advice sector in Wales

- The challenges to advice centres in Wales are not so different from the rest of the UK, but the environment in which they work is. For eight years there has been a different political party in power in Cardiff Bay to that in Westminster. The Coalition Government in Westminster recognised that the legal aid cuts might increase crimes and disturbances and that it would impact poorer people. This illustrates the different environment in which advice services operate throughout England. In the 20 years of devolution the Welsh Government has been interested in advice services and funded advice centres. For example, the Welsh Government has funded advice services in health settings in every local authority area.
- The first challenge is to take advantage of the opportunities in Wales partly because of the work of the Commission on Justice and also the appointment of a new First Minister. The funding regime in Wales means that the third sector is in competition for limited funding, but they are also required to collaborate. We are asking agencies to work together, but they are in competition for funding. There is a tension here. This makes it harder for the third sector to be interested in wider reforms because they are inevitably most interested in funding.
- The second challenge is how to use volunteers, develop a career structure for the advice sector, and how to be confident that the advice is accurate and complete. I often hear advice agencies say they give advice, but not legal advice. They do give legal advice even though they may not realise this. This implies that they do not have to be as good as those people giving formal legal advice. A proper career structure for advice services needs to be put in place. It is important that the quality is right. At the moment there is no career structure or regulation. Regulation is needed to professionalise advice services in a way that does not distinguish between volunteers and paid members.
- A third challenge in Wales is the fact that Wales has 22 local authorities. The National Advice Network (NAN) has created six regions to try and by-pass the issues caused by so many local authorities. All local authorities do things differently. The fact that three million people are governed by 22 local authorities does not make sense. Birmingham has a population of three million with only one local authority. The recommendations of the Commission need to acknowledge the issues caused by 22 local authorities. There is no statutory requirement on local authorities to fund advice services. I favour a requirement on local authorities to fund services. All local authorities do put money into the advice sector (Wrexham is threatening to pull its funding), but on such different levels that it is totally inconsistent. There is a longstanding challenge that the advice sector in Wales was less well resourced than in England. The same level of infrastructure in Wales might not always be in place.
- A fourth challenge is that every small agency has a different case management system. This makes it very difficult to share and use data effectively. A single case recording system would be so much easier for everyone to use. The funders should fund the case management systems as it is needed to provide advice. When Citizens Advice developed its own case management system this was provided by way of a grant from the UK Government. However, despite the system being set up due to a grant they will not share it with others. With one system there is scope for savings. The Welsh Government could lead on this and make it a requirement that resources should be shared if an organisation receives public funding.
- A fifth challenge is that most quality systems are a tick box exercise. The Welsh Government system does involve some tick box exercises which are next to useless. Anyone could tick that they do

something. There should be a peer review element on any quality system.

- A sixth challenge is that outcome measurement is difficult. There is no common understanding if someone is doing a good job or not. The National Advice Network has set itself an aim to link common outcome levels to the goals of the Wellbeing of Future Generations (Wales) Act 2015. This work is ongoing, but it is tough to tackle.
- A seventh challenge is providing services in the Welsh language and other languages. There is a shortage of Welsh language speakers in the advice sector, and we do not have enough people with the right skills.

Question area: Governance and funding models

- **Organisation:** The Welsh Government's review of advice services said that the advice sector in Wales has developed in an ad hoc manner without much planning save for in 2000-2005 with local Community Legal Service plans. This is a good model to start. Before and after this period the agencies that were best able to write applications for funding were the ones successful, regardless of the highest need. What developed prior to 2000 was a patchwork with some agencies very good at securing funding. The same happened through legal aid with solicitors' firms. Legal aid went to solicitors who organised themselves rather than necessarily to where the most need existed. The whole sector is not organised coherently. It exists as a number of stand alone bodies. Some work together well, others don't, but they fundamentally don't trust each other as they are in competition. Most agencies in the third sector don't think anyone else is as good as them. This doesn't encourage co-operation. This means that there are gaps: gaps in geographical areas and gaps in areas of law. It is very patchy, and very unstructured, and not what you would want it to be. Apart from 2000-2005 there has been a free for all funding from local authorities, charities and the major funders. The Welsh Government is better but they are not the largest funders. The model for a National Advice Service produced by NAN is the beginnings of trying to see how we would do things better in Wales. For example nobody should live further than 45 minutes from a generalist advice service. I hope new technology can help, but with technology you need the system to link it up, the infrastructure in place and people to be able to use it for something serious. Welsh speakers may chose to do business in English as they have always done. This is similar to people happier to fill in a form rather than using technology. The Ministry of Justice has set up a digital assisted programme. There are Skype advice projects using lawyers in Bethnal Green to people in that area and also people in Falmouth. This works, providing you have secure networks and someone who can help to facilitate. So there are significant possibilities in the new technology, and going back to the case for a single case recording system, this could certainly be something which could be facilitated by an online system which would be easier for everyone to use and develop, but at the moment no-one is developing this as far as I know.

- **Funding:** There is no central database of funding in Wales and some agencies are reluctant to share information. What we do know is that funding is significantly lower than in 2012. The Welsh Government put in a couple of million pounds after the legal aid cuts, but local authorities also cut services. I would argue that during austerity we should be investing more as this takes the burden off other services. Very few grant programmes are for more than one year: three years is the most you get which makes it very difficult to plan ahead. Most local authorities will not commit to more than a year's funding in the advice sector. When I worked for CAB in the 1970s I used to get a redundancy notice every year as funding was not secure. Things are better now but uncertainty is still a huge issue. As far as I'm aware by travelling around Wales, duplicate funding is not a real problem.

The funders do what they think is right, but they do not look more widely and do not work together. I am glad that the Big Lottery is now working with NAN. One of the problems with CAB is that they have 18 separate services running separate CABs in 22 local authorities. NAN has a funding hub idea which came from the Low Commission. The hub is seen as a clearing house. Not every funder will put money into a single pot, but they might pass their views to a hub about what and where there are gaps in advice services. The Welsh Government is very supportive of a funding hub and so is Big Lottery. The local authorities are not yet committed, but the Money Advice Services and other trusts would like the establishment of a clearing house to see if their funding was being spent well. A funding hub would

be voluntary. To make it compulsory would be attractive, but it will not go down well with some of the providers. The funders are fiercely independent and want to have a say on where their money is spent.

The difficulty we have in Wales is that there are many small separately governed organisations. Local authorities least recognise the understanding of an organisations total cost, professional grant givers are much better in this respect.

There are only a few law firms in Wales that offer social welfare law so we have had to rely on and develop the third sector.

The Welsh Government's annual spending on advice services is between £5-6 million and with local authorities' funding it amounts to around £14 million. The other large funders might take the funding up to £18 million, but we do not know the exact number.

- **Quality control:** The Welsh Government has begun to take the lead on quality control by adopting a higher standard framework. The Welsh Government has publicly said that any funding from them must go to providers that reach the standards. The framework that Welsh Government has adopted does set the bar higher than most standards. There are also other requirements for the Welsh language and outcomes related to the "future generations goals". The Welsh Government is looking for local authorities to require a similar high level of standards. Some local authorities do not require any quality assurance. NAN is also looking at the major funders to agree to the higher quality framework. At present the bar has been set at a low standard, but the framework will raise the bar substantially. The main issue is for funders to link funding to the quality framework. By March the first four standards will be accredited. There is an incentive here as any agency who wants funding from the £6 million from the Welsh Government next year needs to be accredited. The Wyman review said debt management is just as complicated as immigration advice, but it is not regulated.
- **Question around more centralised control:** What you are talking about is taking the proposal for our voluntary funding hub and making it compulsory. I don't think it would necessarily go down well with all the provider agencies. I think that the funders in many ways would welcome such an approach. They are independent in terms of where their funding goes, but they want to be sure that the funds are being used in the best way that they can be, and they are not sure of that at the moment. The providers wouldn't like the coercion element, but it could be made to work through the planning mechanisms, the coproduction of regional plans, meaning that people do have an input into the process. I was the planning manager for the Legal Services Commission and it was my job to decide how and where money should be spent. It is all very well sitting in an office in Cardiff and looking at the statistics, the only way you gain acceptance is by travelling round Wales and talking to people, and learning what the particular needs are. If you do that before setting up this system it may work, but you still wouldn't get a good press at the beginning.

At the Legal Services Commission we recognised that the third sector was better placed in some areas to provide legal advice. We published a report in 2004 which specified requirements for funding, including co-location. We let joint contacts specifying that Citizens Advice and Shelter worked together out of the same front door in every one of the 22 local authority areas. The only reason it stopped working was because the funding was withdrawn from 2006 onwards. If you haven't got something to give then people will not co-operate.

Question area: Tackling root causes of problems:

- Before I received the question I had not heard of Early Action Together, which is really interesting in itself. I have had no contact with them. This is a good example of how things do not work well, as people work in silos.

Question area: Recommendation of the legacy report of the Committee on Administrative Justice and Tribunals, Wales:

- I've been through the 35 recommendations. A substantial number of the recommendations of the legacy report should become the day job of the new President of Welsh Tribunals. The Counsel General has picked up the recommendation of simplifying Welsh law. We don't know whether the actions implemented by Welsh Government are working as there is nobody that oversees the administrative justice system in Wales. Nobody is looking at the whole system. There is still an issue about capacity within Welsh Government for dealing with justice issues. There needs to be a single set of guidance and redress in Wales after a Welsh law is passed. The Welsh Government could do with adopting principles and guidance so there is consistency across the system. If you went to any Assembly Member and asked about casework issues raised by constituents, many would involve justice issues e.g. benefits and housing.
- The annual reports of the tribunals for Wales are not lodged at the National Assembly. Because justice is not devolved the Ministry of Justice collects data on an England and Wales basis and therefore samples in Wales are too small. As the Ministry of Justice is responsible for justice in Wales then it should collect data that is useful to Welsh departments.
- I do not know whether problems identified around the operation of the Valuation Tribunal have been solved. If there are ambitions to devolve justice to Wales then they need to show that the areas already devolved are working at least as well as in England. There is a serious issue whether exclusion appeals are conducted properly. The Law Commission are looking at Welsh tribunals and it is hoped that school exclusion appeals and the Valuation Tribunal are included. There was a danger with the Valuation Tribunal that Welsh Government would fall into disrepute due to the way it was being run. The school admission appeals are not so urgent.
- There is a team of 2.5 people as part of the financial inclusion unit in Welsh Government responsible for managing funding and quality assurance. Paul Neave is the Head of Advice within Welsh Government and JJ Costello is Advice Services Manager - both are on secondment. I report to the Minister of Housing and Regeneration.
- The Welsh Government is planning a single commissioning process which is a three year grant with an annual review over the six NAN regions. NAN commissioned a needs analysis which was published in 2017 which looked at levels of need in each local authority areas in Wales. This is politically risky as some agencies currently funded may lose funding.

Example of good practice in other countries

- Roger Smith is the person to ask about good practice across the world. He gave evidence to the Low Commission. He talked very positively about the Dutch system of law centres, and some Australian states and Canadian provinces.